

MEMORANDUM

Agenda Item No. 8(M)(3)

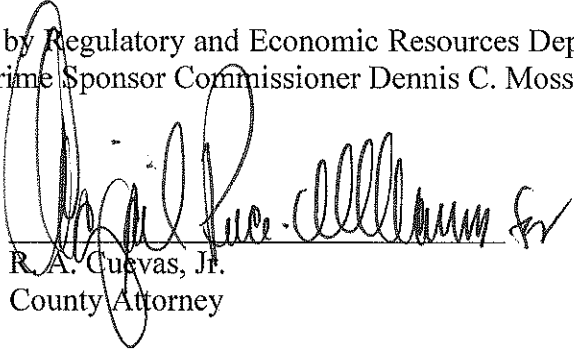
TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: April 21, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution approving an
agreement between Miami-Dade
County and the South Florida
Water Management District to
dedicate certain Environmentally
Endangered Lands owned by the
County to Everglades
Restoration Projects

The accompanying resolution was prepared by Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.



R. A. Cuevas, Jr.
County Attorney

RAC/cp

Memorandum



Date: April 21, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution authorizing the execution of a Cooperative Agreement between Miami-Dade County and the South Florida Water Management District for Certification of County Lands acquired by the Environmentally Endangered Lands Program to be dedicated for the C-111 South Dade Project and the C-111 Spreader Canal West Everglades Restoration Project

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of a Cooperative Agreement between Miami-Dade County and the South Florida Water Management District for Certification of County Lands acquired by the Environmentally Endangered Lands (EEL) Program to be dedicated for the C-111 South Dade Project and C-111 Spreader Canal West Everglades Restoration Project.

Scope

The county lands subject to this agreement are located in Commission District 9, which is represented by Commissioner Dennis C. Moss. However, this agreement provides benefits for the EEL Program which is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact from this agreement is positive, as the county lands subject to this agreement will be managed by the South Florida Water Management District. As of November 30, 2014, the balance of the EEL Trust Fund GF080 is \$44,109,328.00, of which \$21,394,752.03 is reserved for acquisition and \$22,714,575.97 is reserved for management.

Track Record / Monitor

Cynthia Guerra, the EEL Program Manager within the Department of Regulatory and Economic Resources, Division of Environmental Resources Management, will monitor this contract.

Background

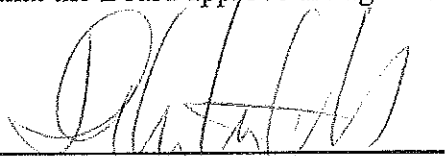
On September 8, 2005, the Board approved a Memorandum of Understanding (MOU) between Miami-Dade County and the South Florida Water Management District for Continued Provision of Cooperative Management of the South Dade Wetlands Environmentally Endangered Lands Project through R-986-05. This MOU was amended on July 8, 2010 through R-718-10 to expand the geographic scope to include the Biscayne Coastal Wetlands and to extend the MOU to September 30, 2020. Under the MOU, a management plan was jointly developed to guide land management activities, such as invasive exotic species, protected species, dumping, and hydrology. The goals in the plan include objectives to remove exotic vegetation, to implement a prescribed fire program, to restore wetlands functions, and to provide for other activities that are necessary to protect and preserve the natural resources in the project area, consistent with the EEL Program purposes.

Honorable Chairman Jean Monestime
and Members, Board of County Commissioners
Page 2

The South Florida Water Management District is entering into Project Cooperation Agreements with the United States Army Corps of Engineers to implement the C-111 South Dade Project and the C-111 Spreader Canal West Everglades Restoration Project. By restoring more natural water levels, these Projects are expected to restore the natural values of regional wetlands including those in nearby EEL Preserves and Everglades National Park while also providing other benefits like maintaining flood protection within the C-111 basin east of the L-31N and C-111, protecting public water supply wells and recharge areas, and improving coastal zone salinities in downstream bays, such as Florida Bay.

Through this proposed Cooperative Agreement, the County will certify that the lands will be maintained in a manner compatible with the projects' restoration purposes and shall not be conveyed, transferred, altered or otherwise encumbered. County lands will be managed by the South Florida Water Management District in a manner compatible with the projects' restoration purposes and consistent with the previously authorized MOU, and EEL Program purposes.

It is in the County's best interest to execute the Cooperative Agreement and dedicate the use of these lands to the aforementioned Everglades Restoration Projects. It is therefore recommended that the Board approve the agreement.

A handwritten signature in dark ink, appearing to read "Jack Osterholt", is written over a horizontal line.

Jack Osterholt, Deputy Mayor




MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: April 21, 2015

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(M)(3)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(M)(3)
4-21-15

RESOLUTION NO. _____

RESOLUTION APPROVING AN AGREEMENT
BETWEEN MIAMI-DADE COUNTY AND THE SOUTH
FLORIDA WATER MANAGEMENT DISTRICT TO
DEDICATE CERTAIN ENVIRONMENTALLY
ENDANGERED LANDS OWNED BY THE COUNTY TO
EVERGLADES RESTORATION PROJECTS;
AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE
TO EXECUTE SAME AND EXERCISE THE PROVISIONS
THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, the C-111 South Dade and C-111 Spreader Canal West Everglades Restoration Projects, as currently formulated, are consistent with the goals and regulations of the Environmentally Endangered Lands Program,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the Agreement, in substantially the form attached hereto and made a part hereof, between Miami-Dade County and the South Florida Water Management District to dedicate certain Environmentally Endangered Lands owned by the County for the C-111 South Dade and the C-111 Spreader Canal West Everglades Restoration Projects; and authorizes the Mayor or Mayor's designee execute same and exercise the provisions contained therein.

The foregoing resolution was offered by Commissioner ,
who moved its adoption. The motion was seconded by Commissioner
and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman
Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro

Jose "Pepe" Diaz

Sally A. Heyman

Dennis C. Moss

Sen. Javier D. Souto

Juan C. Zapata

Daniella Levine Cava

Audrey M. Edmonson

Barbara J. Jordan

Rebeca Sosa

Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of April, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Abbie Schwaderer-Raurell

ATTACHMENT A

COOPERATIVE AGREEMENT

BETWEEN

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

AND MIAMI-DADE COUNTY

THIS COOPERATIVE AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2015, (hereinafter "Agreement Date") by and between the South Florida Water Management District, a government entity created by Chapter 373, Florida Statutes, (hereinafter the "District") and Miami-Dade County, a political subdivision of the State of Florida (hereinafter the "County").

BACKGROUND AND OBJECTIVES

WHEREAS, the District is an independent taxing authority, created by the Florida Legislature and given those powers and responsibilities enumerated in Chapter 373, Florida Statutes; and

WHEREAS, the District is empowered to enter into contractual arrangements with public agencies, private corporations or other persons, pursuant to Section 373.083, Florida Statutes; and

WHEREAS, the District is implementing Everglades ecosystem restoration within Miami-Dade County that includes the C-111 South Dade Project and the C-111 Spreader Canal West Project (collectively the "Everglades Restoration Projects"); and

WHEREAS, the C-111 South Dade Project, is a component of the District's Central and Southern Flood Control Project authorized by Section 203 of the Flood Control Act of 1948, Public Law 80-858, as modified by Section 203 of the Flood Control Act of 1968, Public Law 90-483; and

WHEREAS, on January 13, 1995, the District and the United States Army Corps of Engineers ("USACE") entered into a Project Cooperation Agreement for implementation of the C-111 South Dade Project wherein the District is responsible for acquisition of lands as the local sponsor; and

WHEREAS, the C-111 Spreader Canal West Project, a component of the Comprehensive Everglades Restoration Plan, is authorized by Section 7002 of the Water Resources Reform and Development Act of 2014, Public Law 113-121, and it is anticipated that the District will execute another Project Cooperation Agreement with the USACE after Congress appropriates construction funding for this project; and

WHEREAS, a component of the Everglades Restoration Projects is the restoration of the Southern Glades/Model Lands/South Dade Wetlands, as identified in attached Exhibit "A," made a part hereof, ("Southern Glades"); and

WHEREAS, on May 8, 1990, the electorate of Miami-Dade County approved a one-time increase in ad valorem taxes "for acquisition, preservation, enhancement, restoration, conservation and maintenance of environmentally endangered lands for the benefit of present and future generations; and limiting all uses of, and all investment earnings on such levies to such purposes;" and.

WHEREAS, Miami-Dade County created the Environmentally Endangered Lands ("EEL") Program, which is codified in Sections 24-50 through 24-50.13 of the Code of Miami-Dade County, which provides procedures and standards for the acquisition and management of lands with EEL funds; and

WHEREAS, the County has an established land acquisition project known as South Dade Wetlands, which in small part overlaps the Southern Glades; and

WHEREAS, on September 23, 2005, the District and County entered into a Memorandum of Understanding for the management of lands within the Model Lands Basin, Model Lands Addition, and Southern Glades Addition ("MOU"); and

WHEREAS, on July 29, 2010, the District and County entered into a First Amendment to the MOU, which among other things, adopted an Interim Management Plan ("IMP") establishing goals and objectives for managing the lands that are the subject of the MOU; and

WHEREAS, the County and the District desire to enter into a cooperative agreement for the purpose of the County making the County acquired lands identified in Exhibit B available for the purposes of the Everglades Restoration Projects, specifically the C-111 South Dade and the C-111 Spreader Canal West Everglades Restoration Projects; and

WHEREAS, the C-111 South Dade and C-111 Spreader Canal West Everglades Restoration Projects, as currently formulated, are consistent with Miami-Dade County's May 8, 1990 referendum for environmentally endangered lands and Sections 24-50 through 24-50.13 of the Code of Miami-Dade County (the "Environmentally Endangered Lands Program") which requires that such lands be managed and used to preserve, enhance, restore, conserve, and maintain the resource; and

WHEREAS, any amendments or modifications to these Everglades Restoration Projects must ensure that all management, uses, and activities on the County lands identified in Exhibit B remain consistent with preservation, enhancement, restoration, conservation, and maintenance of the resource.

NOW, THEREFORE, in consideration of these premises and mutual covenants contained herein, the parties agree as follows:

ARTICLE I. - RECITALS

The Recitals to this Agreement are true and correct and incorporated as part of this Agreement.

ARTICLE II. - ALREADY ACQUIRED PROPERTIES

(1) As of the Agreement Date, the County has acquired certain parcels within the Southern Glades as identified in the attached Exhibit "B", made a part hereof (hereinafter "County Lands").

(2) No later than sixty (60) days after the Agreement Date, the County shall execute and deliver to the District the Certification, attached as Exhibit "C," made a part hereof, in which, among other things, the County dedicates the County Lands to the C-111 South Dade and the C-111 Spreader Canal West Everglades Restoration Projects.

(3) The County acknowledges and agrees that the District and the Corps have the right to seek specific performance (without waiving any action for damages) against the County to judicially enforce the paramount use of the lands for the C-111 South Dade and the C-111 Spreader Canal West Everglades Restoration Projects' purposes as set forth in the Certification.

ARTICLE III. – MANAGEMENT OF SOUTHERN GLADES AND MANAGEMENT OF COUNTY-OWNED PARCELS

(1) Once certified to the District, the County Lands will be managed by the District for the C-111 South Dade and the C-111 Spreader Canal West Everglades Restoration Projects' purposes in accordance with the applicable USACE/District Project Cooperation Agreements and amendments thereto. District management of the County Lands is subject to budgetary and staffing constraints. District management of the County Lands shall be consistent with the preservation, enhancement, restoration, conservation, and maintenance of the resource and the District/County MOU IMP Management Goals and Objectives attached as Exhibit "D," made a part hereof.

(2) Subject to the paramount use of the lands by the District for Everglades Restoration Projects' purposes, the County may also manage the County Lands. County management is subject to budgetary and staffing constraints. County management shall not be inconsistent with District management or the Management Goals and Objectives. County access to the County Lands will be at locations to be determined by the parties.

ARTICLE IV. – NOTICES

All notices required or permitted to be given under the terms and provisions of the Agreement by either party to the other shall be in writing and shall be sent by registered or certified mail (return receipt requested), facsimile, or e-mail, to the parties as follows, or to such other address as may hereafter be provided by the parties in writing:

As to the County: Cynthia Guerra, or her successor
Program Director
Environmentally Endangered Lands Program
Miami-Dade County
701 N.W. 1st Court, 6th Floor
Miami, Florida 33136
Facsimile: (305) 372-6673
E-mail: guerrcy@miamidade.gov

As to the District: Marcy Zehnder, or her successor
Section Leader – Real Estate
Real Estate Management Section
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406
Facsimile: (561) 682-5694
E-mail: mzehnder@sfwmd.gov

ARTICLE V. - TERM OF AGREEMENT; EXTENSION; TERMINATION

This Agreement shall be in effect for the life of the C-111 South Dade and the C-111 Spreader Canal West Everglades Restoration Projects.

ARTICLE VI. - AUTHORITY OF PARTIES TO ENTER INTO AGREEMENT

(1) The District represents that this Agreement has been duly authorized, executed and delivered by the Chairman of the Governing Board of the South Florida Water Management District and it has the required power and authority to perform this Agreement.

(2) The County represents that this Agreement has been duly authorized, executed and delivered by the Board of County Commissioners as the governing body of the County and it has the required power and authority to perform this Agreement.

ARTICLE VII. – INDEMNIFICATION

Subject to the limitations of Section 768.28, F.S., and without waiving any defense of sovereign immunity, the District shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the District or its employees, agents, servants, partners, principals or subcontractors. The District shall pay all claims and losses in connection therewith and shall

investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon.

Subject to the limitations of Section 768.28, F.S., and without waiving any defense of sovereign immunity, the County shall indemnify and hold harmless the District and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the District or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the County or its employees, agents, servants, partners, principals or subcontractors. The County shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the District, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon.

ARTICLE VIII. - ADDITIONAL PROVISIONS

(1) This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

(2) The parties may execute this Agreement in counterparts all of which together shall constitute one and the same instrument. A facsimile or e-mailed copy and the signatures thereon shall be considered for all purposes as originals.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the day and year noted below.

Attest:

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,
a government entity created by Section 373, F.S.

Jacki McGorty, District Clerk

By: _____

Date: _____

Legal Form Approved
SFWMD Office of Counsel

By: Abe Cooper

Date: _____

Attest:

MIAMI-DADE COUNTY, a political subdivision of
the State of Florida

_____, Clerk

By: _____

Date: _____

Approved as to form and legal
sufficiency by County Attorney:

By: _____ Date: _____

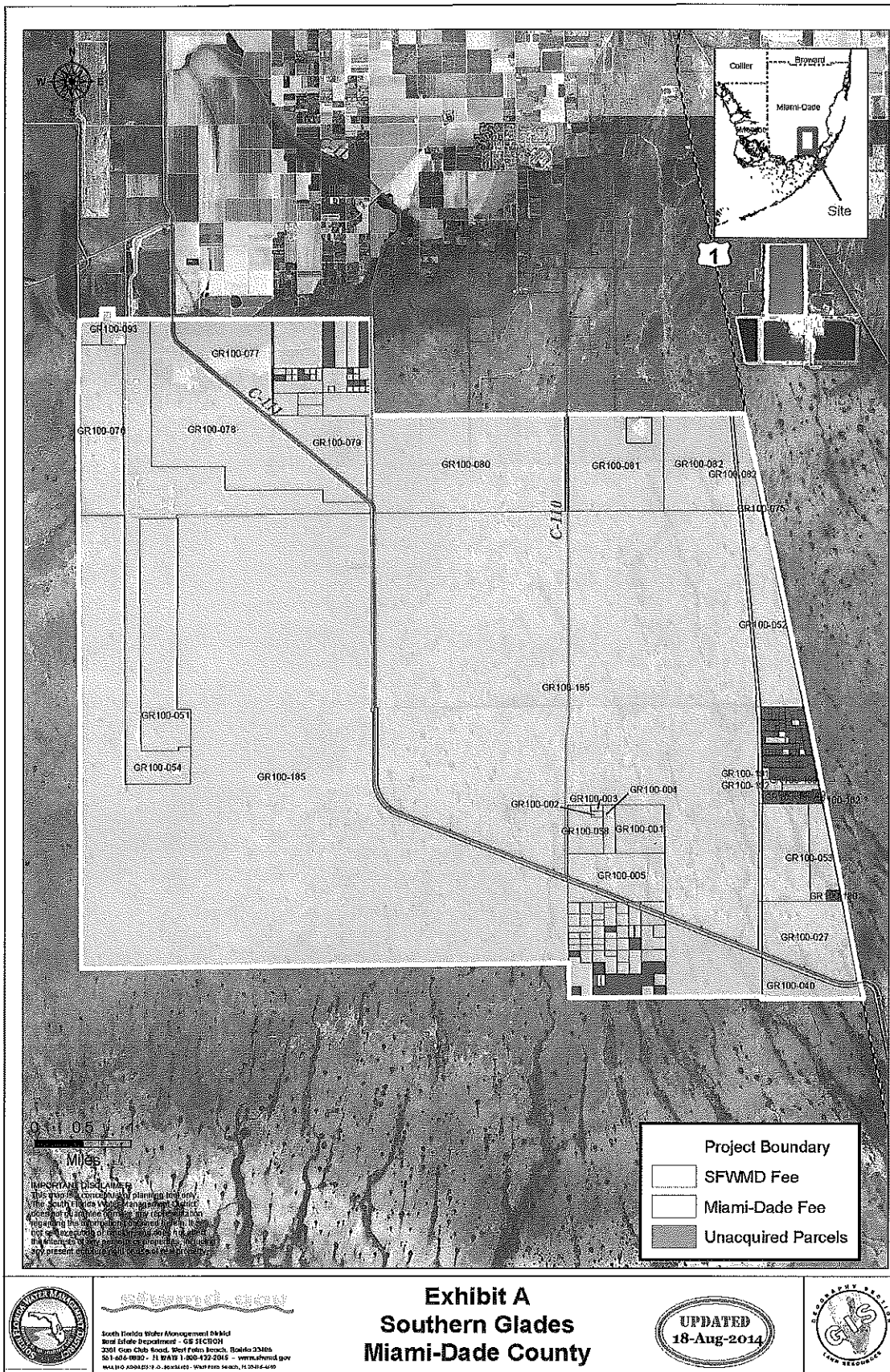


Exhibit C

**CERTIFICATION OF LANDS FOR THE
C-111 SOUTH DADE AND
C-111 SPREADER CANAL WEST PROJECTS**

MIAMI-DADE COUNTY, a political subdivision of the State of Florida ("COUNTY"), does hereby certify to the South Florida Water Management District ("DISTRICT") that as of the date of the COUNTY'S execution of this Certification, it owns fee title to the lands identified in the attached Exhibit 'A' made a part thereof.

COUNTY hereby dedicates the lands identified in Exhibit "A" ("Certified Lands") to the (1) C-111 South Dade Project, which is part of the Central and Southern Flood Control Project authorized by Section 203 of the Flood Control Act of 1948 (Public Law 80-858), as modified by Section 203 of the Flood Control Act of 1968 (Public Law 90-483), and (2) the C-111 Spreader Canal West Project, a component of the Comprehensive Everglades Restoration Plan authorized by Section 7002 of the Water Resources Reform and Development Act of 2014 (Public Law 113-121) (collectively the "Projects") and certifies that the lands will be maintained in a manner compatible with the Projects' purposes and shall not be conveyed, transferred, altered or otherwise encumbered without the express written consent of the DISTRICT and the U.S. Department of the Army, Corps of Engineers ("ACOE"). COUNTY will not impair its fee title to the Certified Lands during the authorized life of the Projects, except if written consent is given as provided above.

COUNTY agrees to maintain the following land acquisition records for the Certified Lands for the authorized life of the Project if the records are currently available; legal descriptions, maps, surveys, title insurance policies, opinions of title, closing statements, deeds of conveyance, environmental assessments, and appraisals, together with any other pertinent documents. COUNTY agrees to make those records available to the DISTRICT and ACOE upon request. DISTRICT management of the Certified Lands is subject to staffing and budgetary constraints. DISTRICT management of the Certified Lands shall be consistent with the preservation, enhancement, restoration, conservation, and maintenance of the resource and the DISTRICT/COUNTY MOU IMP Management Goals and Objectives as set forth in Exhibit D to the Cooperative Agreement between the DISTRICT and COUNTY, dated _____, 2015..

COUNTY does hereby grant to District and USACE a non-assignable license, as of the date of this Certification to enter the Certified Lands for purposes of inspecting, implementing, operating, maintaining, and rehabilitating the Projects.

MIAMI-DADE COUNTY, a political subdivision of
the State of Florida

Witness: _____

By: _____

Witness: _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, Director of _____, Miami-Dade County. He/She is personally known to me or has produced _____ as identification.

(seal)

Notary Public, State of Florida

My commission expires: _____

Exhibit D

INTERIM MANAGEMENT PLAN GOALS AND OBJECTIVES*

OVERARCHING INTERIM GOAL: Bring the IMP Project area into a condition that is conducive to making long-term management feasible.

GOAL 1: Remove invasive exotic species to the extent feasible.

OBJECTIVE 1A: Remove 95% of invasive exotic plant species.

OBJECTIVE 1B: Maintain populations of invasive exotic plant species at less than 5% cover within areas that have been treated for invasive species.

OBJECTIVE 1C: Remove invasive exotic animals wherever feasible.

OBJECTIVE 1D: Cooperate with regional invasive species management teams whose jurisdictions are adjacent to or overlap with the project area.

GOAL 2: Maximize opportunities to reduce the region's susceptibility to exotic species invasion.

OBJECTIVE 2A: Not Applicable

OBJECTIVE 2B: Improve local and regional hydrology to reduce habitat for invasive species.

OBJECTIVE 2C: Investigate methods for reducing the region's susceptibility to invasive species colonization, and implement as appropriate.

OBJECTIVE 2D: Work with land use agencies to minimize incompatible land uses that could increase area susceptibility to invasive species colonization.

GOAL 3: Improve access control.

OBJECTIVE 3A: Reduce inappropriate uses and damage to wetlands by installing and maintaining access control measures in appropriate locations wherever possible.

OBJECTIVE 3B: Maintain, and increase where possible, enforcement patrols within the project area.

OBJECTIVE 3C: Work with adjacent private property owners to increase the number and security of access control measures.

OBJECTIVE 3D: Seek dedication of rights of way and/or transfers of rights of way to conservation status to the extent possible.

GOAL 4: Reduce vegetation impacts and wildlife mortality due to human activities, with emphasis on protection of rare and protected species, including but not limited to threatened and endangered species.

OBJECTIVE 4A: Investigate methods to limit off-road vehicular traffic to the minimum necessary for management and maintenance activities in order to minimize trampling impacts, and implement wherever feasible.

OBJECTIVE 4B: Investigate methods to limit road vehicular traffic to the minimum necessary for management and maintenance activities in order to minimize road kill impacts, and implement wherever feasible.

OBJECTIVE 4C: Work with appropriate agencies and landowners to ensure that necessary human activities in the region avoid and minimize impacts to ecological resources. Strategies should include avoiding intrusion into existing wildlife corridors, and where avoidance is not possible, utilizing protection measures to the extent feasible. Such protection measures should include, but not be limited to, providing appropriate buffers between human use facilities and natural features, utilization of appropriate native plant species in plantings, avoiding intrusion into existing wildlife corridors, and use of road underpasses and wildlife fencing, as appropriate and wherever feasible.

GOAL 5: Where feasible, eliminate or remediate existing pollution problems.

OBJECTIVE 5A: Remove solid waste from public land, with highest priority given to locations where access control measures have been successfully implemented.

OBJECTIVE 5B: Develop and implement restoration/remediation projects for areas with a history of adverse impacts.

GOAL 6: Use prescribed fire to achieve management goals when and where feasible.

OBJECTIVE 6A: Develop partnerships with other agencies involved in local and regional prescribed fire activities.

OBJECTIVE 6B: Work with the Florida Division of Forestry (FDOF) to prepare burn plans for sites where prescribed fire seems feasible, and implement if weather conditions permit.

OBJECTIVE 6C: Work with FDOF to develop a wildfire strategy that balances protection of property with opportunities to utilize wildfire to achieve regional management goals.

GOAL 7: Restore ecological function wherever feasible, consistent with CERP and other planned regional restoration projects. Restoration should include but not be limited to hydrologic improvements, removal of physical impediments to overland flow (e.g. roads, berms, canals) and restoration of flow in historic sloughs and other flow ways.

OBJECTIVE 7A: Identify opportunities for physical feature removal, including but not limited to roads, berms, and levees, that would enhance wetland hydrologic and ecologic functions without impairing land management access, and implement removal wherever feasible.

OBJECTIVE 7B: Prepare conceptual plans for at least one restoration project to achieve restoration or enhancement of wetland function.

OBJECTIVE 7C: Provide technical support and expertise to regional restoration projects such as CERP.

*Source: Amendment 1, Memorandum of Understanding between the South Florida Water Management District and Miami-Dade County, dated July 29, 2010